

# Tim Brick

Date: September 7, 2017

To: Officials of the Los Angeles County Flood Control District (FCD)

## **RE: Devil's Gate Reservoir Sediment Removal and Management Project - Comments on Revisions to the Final Environmental Impact Report**

I fully endorse the formal comments of the Arroyo Seco Foundation, which have been submitted separately.

The revisions to the County Flood Control District's Final Environmental Impact Report (RFEIR) issued on July 24, 2017 are rather sketchy and narrow in the interpretation of Judge James Chalfant's order regarding the project. Important information and documentation has been neglected, such as a review of alternative low-emission vehicles, an actual mitigation plan and consideration of the cumulative impacts of related projects.

Here are some specific concerns that should be addressed before the project is allowed to start again.

### **Inadequate Public Comment Period and No Public Outreach Meetings**

Given the complexity of the issues involved and the lack of documentation in the revisions, the 45-day comment is inadequate. This is particularly important because the LACFCD did not hold any public meetings to present or explain the extent and nature of the revisions. The Arroyo Seco Foundation and several individuals request that the County conduct public outreach meetings to solicit comments on the RFEIR and extend the public comment period to allow the public additional time to review and comment upon the RFEIR, but these requests were rejected. The comment period also occurred during the dog days of summer, giving the clear impression that FCD did not want to encourage or facilitate public understanding or acceptance of their revisions or their draconian mining and trucking operation.

## **Alternatives**

While the revisions do not directly deal with alternatives to the FCD's massive sediment excavation program, it is important consider that there are viable and less-destructive alternatives that would dramatically improve each of the elements considered by the revisions, 1) air quality, 2) mitigation ratio, and 3) cumulative. Each of these elements would be easier to achieve and the negative aspects would be dramatically reduced by these alternatives.

During the EIR process many people have spoken of viable alternatives to the FCD program, mostly centering around going slow, reducing the amount of sediment removed and the permanent destruction zone, and using a surgical approach to sediment removal and habitat protection and restoration. The City of Pasadena, which owns and operates Hahamongna, has endorsed such a plan. Reducing the sediment buildup on an ongoing basis rather than generational cataclysmic approaches like the FCD plan.

## **Justification for 1:1 Habitat Mitigation Ratio**

Judge James Chalfant ordered the County to provide documentation that their proposed 1:1 mitigation ratio would adequately protect sensitive habitat and species. Instead of providing expert testimony from biologists and restoration experts, however, FCD lists a few projects, such as a Vulcan mining operation and an apartment complex in Riverside County, that have been allowed to proceed with 1:1 mitigation programs. None of these examples have been legally challenged or properly monitored to provide evidence of the suitability of a 1:1 program in a rare riparian zone. Most mitigation programs in sensitive riparian areas have had a 2-3:1 ratio, and some have gone as high as 5:1. The examples that the County uses indicate that the 1:1 mitigation goal may be achievable rather than proving that it as a justifiable goal in the first place. This 1:1 standard can only be justified by the County's underestimation of the habitat values in the Hahamongna basin and the Arroyo Seco.

## **Habitat Restoration Plan**

The County promises to develop a Habitat Restoration Plan, but while they list numerous guidelines that they promise the plan will include, they do not put forth

the actual plan nor define the performance standards they hope to achieve, even though the County has already prepared and submitted a Draft Habitat Restoration Plan to the United States Army Corps of Engineers. The County's mitigation plan should be made available to the public and reviewed as part of this RFEIR to allow the public to fully evaluate the potential effectiveness or deficiencies of the mitigation program.

## **Significance of Impact**

The RFEIR improperly concludes that the Project will have "less than significant impacts" on biological resources, stating that "[b]ased on the evidence cited above and the steps outlined in Mitigation Measure BIO-8 to ensure a successful replacement at a 1:1 ratio, neither a higher mitigation ratio nor other Mitigation Measures would be necessary to reduce impacts to below level of significance." However, the County's mitigation program of 1:1 fails to mitigate the Project's impacts to biological resources to a level of "less than significant" given that the habitat mitigation is proposed to be within both on-site and off-site areas, simply destroying riparian habitat and replacing it in another location that may not even be in the same watershed as Hahamongna.

## **Quality of Habitat**

The RFEIR consistently underestimates the quality of habitat in the Hahamongna basin. The RFEIR utilizes a 2013 habitat assessment, rather than reviewing more recent conditions in which healthy habitat has flourished in the Basin. The County has conducted habitat surveys since 2013 as part of preparing a habitat mitigation plan for the United States Army Corps of Engineers. That more recent information should be included as part of the RFEIR.

The County's habitat assessment systemically underestimates the amount of habitat currently in the basin, overemphasizing the presence of invasive species and underestimating the presence of certain types of riparian habitat by claiming that habitat has been buried under sediment even though it has re-established itself since 2013. The County, by characterizing these habitats as more degraded than they are, attempts to minimize the destructive impacts of their excavation and mining program as well as to reduce their obligation to mitigate those impacts.

## **Period of Monitoring**

The County must provide a longer and more comprehensive monitoring period for habitat mitigation. The FEIR and revisions provide that monitoring will occur for only 5 years or until the performance standards, which are not well-defined, are met. This is a very short period of time given the time and conditions it would

take for high-quality habitat equivalent to the ones they will destroy to re-establish.

## **Location of Mitigation**

If mitigation is to protect natural values, it should be as close to the site of destruction as possible. The County, however, only promises that mitigation will be "onsite, offsite with Arroyo Seco subwatershed and offsite within the greater Los Angeles River Watershed." This standard does not protect the rare habitat zones of Hahamongna or its importance as a key habitat corridor that links the San Gabriel Mountains to the Los Angeles River system. In addition to the vital corridor that the Arroyo Seco is, Hahamongna is the passage for wildlife, habitat and seeds to the Verdugo Hills and is part of an important corridor that links across the front range of the San Gabriel Mountains all the way to Tujunga Canyon ten miles west.

## **Mitigation of Trees**

The revisions inappropriately change the identification of trees for which the County will mitigate. The change from the FEIR is that now the County only promises to mitigate for trees that are found on the City of Pasadena list of protected trees as found in Municipal Code 8.52. That list, however, was designed primarily to protect street trees and trees in an urban setting. It only includes a small list of species of native trees that are likely to be found in a natural riparian stream zone and the other unique habitat zones in Hahamongna. It does not include many other trees and plants that are currently found in Hahamongna and that would be found in a healthy streamzone. This narrow definition is inappropriate and will have a very negative impact on the habitat mitigation program.

## **Definition of Riparian Zone**

The RFEIR underestimates the amount of riparian habitat that would be affected by the Project. The Revised FEIR states that the Proposed project would remove 51.4 acres of Riparian Woodland and 11.1 acres of Mule Fat Thickets. However, Mule Fat Thickets is a type of riparian habitat. The calculation of the project's permanent impact zone seems to vary in different sections of the revision document in a rather opportunistic way.

### **Air Quality**

The County should utilize alternative fuel trucks to minimize NOx and Diesel Particulate Matter emissions. The revisions stipulate that the County will utilize Model Year 2010 diesel trucks. However, emissions from Model Year 2010 Trucks

will still have significant air pollution impacts, given the sheer number of trucks (up to 425 per day), steep grade, traffic congestion, long idling times, and proximity to residential neighborhoods and schools. Furthermore, this standard does not apply to other mining and excavation equipment, which is also diesel-powered and likely to be even older equipment. As a responsible public agency, the County should use only clean air vehicles. This is important to protect the sensitive populations who live within the airshed of the Hahamongna and of the 210 freeway.

The County's air quality measures fail to take into consideration the seventeen schools that are located within a half mile of the Hahamongna/Devil's Gate basin. Here are the schools where children will be exposed to diesel pollution from LA County Flood's 425 trucks a day to scoop out Hahamongna.

- Crestview Preparatory,
- Franklin Elementary,
- Hillside School and Learning Center,
- Jackson Elementary,
- La Cañada High,
- Nanny's Nursery,
- Odyssey Charter,
- Pasadena Unified,
- The Sycamores School,
- Woodbury Preschool Village.
- Child Educational Center
- St. Francis High School
- Flintridge Prep
- St. Bede School
- Sacred Heart School
- Muir High School
- La Cañada Methodist Preschool

Many additional schools and thousands of vulnerable children and seniors are within the airshed of the 210 freeway. Diesel trucks, including those that might meet the 2010 standard, will have a very negative impact on the health and well-being of many thousands of local residents.

