

Communication from Public

Name: Kathleen Johnson
Date Submitted: 08/03/2023 11:08 AM
Council File No: 08-3420-S1

Comments for Public Posting: As a 30-year resident of Silver Lake, co-founder of the Silver Lake Meadow Native Plant Garden, and regular volunteer with the ongoing reservoir plantings and improvements, I fully support the Reservoirs Master Plan. The Plan will create a jewel of an urban wetland for all of Northeast LA, building climate resilient native landscapes for both wildlife and people, and will get us all to the water's edge. With 32 new acres of wildlife habitat (including vital wetlands) and passive-only recreation (walking, sitting, bird watching, etc.), it's a once-in-a-generation opportunity to put this key piece of neglected city infrastructure to maximum community benefit and use! I'm confident that any related issues/concerns such as long-term maintenance, security, increased neighborhood visitors, parking and public transit can all be sufficiently addressed as the process unfolds. The opening of the walking path at the property, as well as the subsequent opening of the Meadow park at the property, also faced similar concerns. And in each instance, these new public access areas of the reservoirs complex were successfully opened and maintained, and are now vital amenities for both Silver Lake and the surrounding, and historically park-poor, neighborhoods of Northeast LA. Sincerely, Kathleen Johnson xo Kathleen

Communication from Public

Name: Mel McGraw

Date Submitted: 08/03/2023 11:30 AM

Council File No: 08-3420-S1

Comments for Public Posting: I support the master plan for the Silver Lake Reservoir!

Communication from Public

Name: Debbie Slater

Date Submitted: 08/03/2023 05:09 PM

Council File No: 08-3420-S1

Comments for Public Posting: I urge you to reject the SLRCMP EIR and ask for further review of impacts to traffic, noise, garbage, wildlife and quality of life. The traffic study conducted was not accurate of real patterns since it was taken during Covid-19 restrictions. I also feel the impacts to wildlife and migration patterns was discounted in report. Not only will construction destroy generations of wildlife but new activities in the space will alter them forever. Please return for more study with experts

Communication from Public

Name: Anna Keeper

Date Submitted: 08/03/2023 06:22 PM

Council File No: 08-3420-S1

Comments for Public Posting: Please find a way to reduce the removal of mature trees

Communication from Public

Name: Vanessa Fiola

Date Submitted: 08/03/2023 12:54 PM

Council File No: 08-3420-S1

Comments for Public Posting: I am concerned about Silver Lake Reservoirs Conservancy's (SLRC) dismissive counter-arguments to community-raised concerns for the proposed Silver Lake Reservoir initiative, not the least of which surrounds security risks. We need clear and tactical details with respect to how security will be addressed. Per their most recent communication, SLRC states, "Security plans would include provisions such as on-site security staff." Okay, say more. E.g. What are the hours of on-site security staff? Where are they positioned around the trail? What are the accountability measures to the Silver Lake Conservancy if security is not sufficient? In what way are they accountable if the project doesn't turn out the way they insist it will? Without providing this kind of detail, they are potentially misleading the community who are most impacted by ideas that **seem** really cool but in practice have a material impact on the people who would have to shoulder the burden of best-laid plans. Thank you for your consideration.

Communication from Public

Name:

Date Submitted: 08/03/2023 03:06 PM

Council File No: 08-3420-S1

Comments for Public Posting: My husband and I live in Silver Lake and walk around the reservoir almost daily. We cherish this beautiful urban oasis and we believe that it should be improved, making it more hospitable both for humans and for wildlife. So we are dismayed that the Master Plan does not prioritize wildlife and green space and that it will, in fact, increase air pollution. The proposal to add 135 parking spots to Silver Lake Boulevard is particularly grotesque: More parking spots means more cars which of course means more pollution. It is a fact that Los Angeles already has the worst ozone pollution in the country. Why is the city seeking to make it worse? We are also dismayed that the plan does not protect birds. Without a fence or a similar barrier around the reservoir(s), unleashed dogs will enter the water and so will people. The city should be doing everything in its power to encourage people to walk, ride bicycles and use public transportation. The city should be doing everything in its power to increase green spaces and environmentally sensitive areas that protect and sustain the city's wildlife. We are in the midst of a planetary crisis: The world is boiling. In July, a heat dome settled over Los Angeles, sending temperatures soaring; another heat dome will return this weekend. We can either try to make the world better or we can make environmentally harmful choices like the city's Master Plan. We enthusiastically support "Alternative 3 – Silver Lake Reservoirs Natural Lands and Open Space Preserve Alternative," and we urge the city to do the environmentally right thing.

Communication from Public

Name: Scott Plante

Date Submitted: 08/03/2023 09:04 PM

Council File No: 08-3420-S1

Comments for Public Posting: Dear Chair Yaroslavsky and Energy and Environment Committee: I would like to express my concern about the Environmental Impact Report for the Silver Lake Reservoir Master Plan, scheduled for review at your Special Meeting on August 4, 2023. Specifically, I am concerned about the potential cost of this project, the lack of serious and dedicated funding, and its' potential effect on the Silver Lake community. I do not support the removal of hundreds of mature trees. Despite their potential replacement with new trees, it will take years to replace the beneficial effects of these lost trees on our urban environment. The City does not have a great track record with planting new trees: often planted, many are never watered properly or taken care of and die shortly after planting. The lack of serious and dedicated funding is a significant concern. How will this master plan be paid for? Will taxes be raised? Will money be diverted from other causes? Will the Silver Lake Reservoir be seeking funding from developers? In addition to my funding source concerns, the City has significant other priorities that should be taken care of first: solving the homeless problem once and for all being the most important. In addition, the City is plagued by trash. Our roadsides are dirty, not cleaned often enough and plagued by items such as paper cups and fast food wrappers. Finally, many of our sidewalks and schools need maintenance and repair, also higher priorities than funding for remodeling an existing park. And what about maintenance? The City of Los Angeles does not adequately maintain the parks it has, so why should we taxpayers spend more money on something the City can't maintain properly? The construction timeline is not clear, meaning that reconstruction could potentially take years. Residents could be affected by years of construction traffic and this should be clarified. I would request approval of the Silver Lake Reservoir Master Plan be delayed until the above questions can be answered properly.

Communication from Public

Name: Silver Lake Wildlife Sanctuary
Date Submitted: 08/03/2023 11:07 PM
Council File No: 08-3420-S1
Comments for Public Posting: Attached please find the Silver Lake Wildlife Sanctuary's Comment Letter on the SLRC Master Plan DEIR.

December 16, 2022

Via Email (eng.slrcmp@lacity.org, jan.green.rebstock@lacity.org)

Dr. Jan Green Rebstock
City of Los Angeles
Public Works, Bureau of Engineering
1149 S. Broadway, 6th Floor, Mail Stop 939
Los Angeles, CA 90015-2213

Re: Comments on Draft Environmental Impact Report for Silver Lake Reservoir Complex Master Plan Project, SCH #2022010055

Dear Dr. Rebstock:

On behalf of our client Silver Lake Wildlife Sanctuary (SLWS), we provide the following comments on the draft environmental impact report (DEIR) for the proposed Silver Lake Reservoir Complex Master Plan Project (“Project”). SLWS consists of more than 800 members in the community surrounding the proposed the Project site as well as over 7,000 petitioners from the community-at-large. The mission of SLWS is to preserve the open waters of the Silver Lake Reservoirs and their surrounding acreage as a sanctuary to create a protected habitat for migratory birds and urban wildlife that can be enjoyed by all.

The California Environmental Quality Act (CEQA) serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.) CEQA requires full disclosure of a project’s significant environmental effects so that decision-makers and the public are informed of these consequences before the project is approved to ensure that government officials are held accountable for these consequences. (*Laurel Heights Improvement Ass’n of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.) The environmental impact report process is the “heart of CEQA” and is the chief mechanism to effectuate its statutory purposes. (*In Re Bay-Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1162.) SLWS is concerned the DEIR fails to adequately disclose, analyze, and mitigate the Project’s significant adverse environmental impacts.

The Project’s main flaw, and source of the inadequately analyzed impacts, is its attempt to cram as many new uses and features as possible on this site. The Project currently includes features that were roundly rejected by the community, such as water-based human activities, particularly kayaking. Despite the community’s directive that there should not be kayaking on the Reservoir, the Project proposes a kayak launch and tours. Instead of listening to the community’s urging that any changes to the site be slow and carefully considered, using feedback from each incremental change to determine whether future changes are advisable, the City proposes a significant amount of construction

spread throughout the Reservoir site.

The DEIR fails to adequately disclose, analyze and mitigate the impacts these massive changes to the site would result in. Of particular concern to SLWS is the inadequacy of DEIR's biological analysis, which fails to provide accurate baseline biological conditions on the site, fails to adequately analyze species that use the site, and fails to support claims that habitat changes on the site will provide wildlife benefits. Any changes to this site need to be scientific data driven, to ensure this site can provide enhance wildlife habitat.

The DEIR also fails to properly address the historic impacts to this site as a City-designated Historic Cultural Monument. The site also derives scenic value through its current quiet, unclutter, nature-focused condition. The aesthetic impacts of changing this focus are not disclosed in the DEIR. As proposed, the Project and its substantial amount of new development, would be inconsistent with a number of existing and planned land use plans and regulations, including the General Plan Open Space Element, the Silver Lake-Echo Park-Elysian Valley Community Plan, zoning regulations, and the site's designation as a Protection Area for Wildlife. The excessive development include on the site would also result in significant construction and operational noise impacts that should be mitigated through reduction in intensity of development. The DEIR further fails to adequately analyze and disclose the Project's hydrological, public safety and traffic impacts.

The DEIR's analysis is so thoroughly inadequate that a revised DEIR must be recirculated. The new analysis contained in the revised DEIR should be use to ensure the Project's objectives provide environmental benefits and do not require adverse impacts. The new analysis should also be used in evaluating alternatives to the Project. SLWS notes that Alternatives 2 and 3 presented in the DEIR are both feasible alternatives that would reduce the Project's significant impacts that are acknowledge by the DEIR and some that are not. However, after reviewing comments from biological experts, and reconfirming the importance of the Silver Lake Reservoir Complex as wildlife habitat for migratory birds, raptors, herons, bats, terrestrial mammals and more, we have provided in this comment letter an Alternative Hybrid 3+2 that relies on biological data to assess the appropriate development for this site, ensuring it will be able to remain the important wildlife habitat and preserve it currently serves as. Without data and community support for changes to the Reservoir, the substantial funds necessary for the numerous proposed features should not be expended.

- **The EIR Fails to Provide an Accurate, Finite, and Stable Project Description.**

Every EIR must set forth a project description that is sufficient to allow an adequate evaluation and review of the project's environmental impacts. (CEQA Guidelines § 15124.) "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93; accord *San Joaquin Raptor/Wildlife Reserve Center v. County of*

Stanislaus (1994) 27 Cal.App.4th 713, 730.) “[O]nly through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives.” (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.)

As a whole, the DEIR’s project description provides inadequate detail to allow for a reasoned assessment of the Project’s potential impacts. Several aspects of the Project as proposed in the DEIR are particularly unstable and vague, leading to an inadequate project description under CEQA. These aspects include:

Project Features: The DEIR proposes a set of park uses, activities, and features, yet fails to specify defined parameters for some of these features. For example, the DEIR does not clearly specify what activities will operate out of the proposed Education Center and Multi-Use Facility. Further, the DEIR’s project description provides only a conceptual scenario regarding the fencing plan. (DEIR, p. 2-7.) Without this information, the DEIR cannot adequately and accurately assess the Project’s impacts.

Construction Timeline: The DEIR admits that the Project’s construction schedule is unknown. This is too vague and unstable to be compliant with CEQA. The DEIR states that construction of the proposed park zones “may occur simultaneously or sequentially.” (DEIR, p. 2-40.) It proceeds to group park zones into two distinct groups for the purposes of analysis, assuming that one group of park zones would be constructed prior to the other, to avoid potential damage to any of the new facilities. (DEIR, p. 2-40.) But the project description offers no definite commitment to construction of the park zones in this sequence. The Project could be constructed in any possible sequence. Further, the DEIR is silent on the sequence of construction of park zones within each grouping. The order and schedule of construction is important because it will help determine which impacts will occur and when they will occur. For example, simultaneous construction of park zones could increase impacts, such as noise, air quality, biological resources, and others. Additionally, simultaneous construction could eliminate existing habitat relied upon by wildlife before new habitat is created. As discussed in Section III.A below, and in comments provided by biological experts, this would have a significant adverse biological impact that the DEIR fails to address.

Lighting Plan: New lighting at the Silver Lake Reservoir Complex has the potential to adversely impact wildlife currently using the Project site and wildlife the Project claims it is intended to attract. The DEIR’s project description provides minimal information regarding the new lighting, failing to disclose the increase in magnitude such lighting would impose on the site, or the type of lighting that would be used, including the spectrum of lighting proposed. Without this project information, the DEIR is inadequate to assess impacts of the lighting plan on biological resources.

Reservoir Edge Improvements: The DEIR states that embankments will be improved, but offers virtually no properly defined details as to how the reservoir edges will be improved. Instead, the DEIR states that improvements include resurfacing, and installation of green edges, riprap, and people terraces. Each of these methods would have differing impacts, and the impacts would depend on where in the reservoir complex they were installed. The Master Plan contains a diagram purporting to show where each of the improvements will be located (DEIR App. B, p. 201), but the DEIR does not present this diagram in the project description, nor does it rely upon it to analyze the impacts associated with reservoir edge improvements. The locations of these improvement must be defined and set in the DEIR's project description in order for it to be adequately stable and defined for purposes of CEQA. As discussed in the Section III.A.2 below, and in comments provided by biological experts, the reservoir edge improvements could have adverse impacts on waterbirds that were not analyzed.

The DEIR states that consideration in the new reservoir edge treatment “would be given for emergency egress elements to provide ways to exit the water.” (DEIR, p. 2-29.) This is far too vague—the DEIR should define emergency egress elements in the project description. Without such detail, the DEIR cannot analyze the impacts of reservoir edge treatments on biological resources, water quality, and public safety.

The DEIR also states that “no public access to water activities would be allowed,” except through guided educational tours. (DEIR, p. 2-29.) Nowhere in the project description is there a disclosure of the frequency, length, capacity, and availability of such tours. This information is necessary to understand the intensity of the Project's use of the reservoir for tours, and the impacts of such use.

The DEIR states that a 5-foot planted buffer with integrated seating would be maintained between the path and the edge of the slope “wherever possible.” (DEIR, p. 2-29.) The existence and location of the buffer must be well-defined in the EIR.

Offsite Improvements on Silver Lake Boulevard: The Project includes two options for offsite improvements, both of which are vaguely defined. (DEIR, pp. 2-25 and Figure 2-16.) The first option includes an improved southbound bike lane on the west side of the road, and relocates an existing northbound bike lane to the west side of the road. It also includes a sidewalk buffering the bike lane from the road, and parallel parking. The second option includes improvements, restriping and relocation of the existing bike lane, with no sidewalk or additional parking. The project description needs to clearly define which project option will move forward, because each configuration may have different impacts, such as traffic safety impacts. Conceptual development scenarios do not meet CEQA's requirements for an adequate project description.

(*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 18.)

- **The DEIR Improperly Relies Upon Project Design Features Without Disclosing Impacts.**

The DEIR improperly relies upon so-called project design features (PDFs) and claims that conditions will be placed on the Project in an attempt to reduce many of the Project's impact without the required analysis of the impacts or the measures relied upon to mitigate them. (See DEIR, pp. 2-34 to 2-40.) The majority of these PDFs appear to be mitigation measures that the City has failed to incorporate into the Project's Mitigation Monitoring and Reporting Program (MMRP). When a Project incorporates mitigation measures, CEQA requires that those mitigation measures be "fully enforceable through permit conditions, agreements, or other measures." (Pub. Resources Code § 21081.6(b).)

As mere PDFs that will not necessarily be incorporated into Project approvals, conditions, and the MMRP, the PDFs are not properly enforceable by the City or third parties and cannot be relied upon for any reductions in Project impacts. CEQA's mitigation requirements exist for a reason. "The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded." (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261; *Katzeff v. California Dept. of Forestry and Fire Protection* (2010) 181 Cal.App.4th 601, 612; *Lincoln Place Tenants Assn v. City of Los Angeles* (2005) 130 Cal.App.4th 1491.)

The heavy reliance on Project PDFs and the future imposition of conditions also improperly compresses the DEIR's disclosure and analysis functions. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-656.) A "mitigation measure cannot be used as a device to avoid disclosing project impacts." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663-664.) Here, the DEIR claims that the PDFs are part of the Project itself and fail to assess the impacts of the Project without these PDFs. But, a **mitigation measure is not part of the project.** (*Lotus, supra*, 223 Cal.App.4th 645, 656 & fn. 8.) An EIR cannot incorporate "the proposed mitigation measures into its description of the project and then conclude [] that any potential impacts from the project will be less than significant." (*Id.* at 655-657.) The DEIR's shortcut is "not merely a harmless procedural failing...[it] subverts the purposes of CEQA by omitting material necessary to informed decisionmaking and informed public participation." (*Id.* at 658.)

- **The DEIR Fails to Adequately Analyze the Project's Impacts.**
- **The DEIR's Disclosure, Analysis and Mitigation of Biological Impacts is Woefully Inadequate.**

SLWS provides a summary of the DEIR's inadequate assessment of biological impacts based on the much more detailed expert comments prepared by: Daniel Cooper at the Resource Conservation District (Attachment 1); Associate Professor Amanda J. Zellmer (Attachment 2); Johdan Fine (Attachment 3); and the Los Angeles Audubon Society. These experts reveal flaws in the DEIR's biological resources assessment that are so fundamental and pervasive that new analysis must be prepared and the DEIR must be recirculated. The DEIR fails to include much of the required analysis identified for this

Project by the California Department of Fish and Wildlife (“CDFW”). (Attachment 4, CDFW Scoping Comments.)

The DEIR fails to disclose baseline biological conditions, resulting in an inability for the DEIR to assess the Project’s impacts on those conditions.

Experts have also advanced the need for any changes at the Reservoir site to be gradual, with assessment of the wildlife impacts after each small change at the site to allow further changes to be halted if the Project begins to adversely impact wildlife.

- **The DEIR Fails to Provide a Complete and Adequate Disclosure of Baseline Biological Conditions**

Under CEQA, a project’s environmental impacts are determined by comparing the environmental baseline, the without-project conditions, to with-project conditions. (CEQA Guidelines §15125, subd. (a).) Without an accurate baseline, an EIR cannot accurately disclose a project’s likely environmental impacts, or determine whether those impacts can be fully mitigated. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322.) Here, the DEIR fails to provide the required accurate baseline. It also improperly fails to “clearly identify the baseline assumptions” and support those assumptions with substantial evidence. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659.)

Expert biological comments reveal a multitude of baseline conditions that are not disclosed or supported. Of great significance is the DEIR’s failure to address the fact that the baseline conditions provide minimal human disturbance of wildlife and their habitat. Disclosure and assessment of this lack of human disturbance, and its importance to wildlife species is essential to evaluating the impacts associated with the Project as it would exponentially increase human interference with wildlife and their habitat. Without that foundational assessment of existing conditions, the impacts of increased human disturbance cannot be evaluated or mitigated.

The DEIR also fails to accurately and adequately disclose the existing value of the Silver Lake Reservoir Complex for migrating birds and as nesting territory. (Attachment 1.) No count or sighting data is provided for waterbirds. The DEIR fails to disclose the use of the Reservoir site for raptor species. The DEIR completely fails to identify the long-term Great Blue Heron rookeries as the site. The DEIR also fails to disclose the importance of the site as an international stopover on the Pacific Flyway Corridor. This importance was identified as one of the reasons for designating the site as a Protected Area for Wildlife. (See Section III.C.5.)

The DEIR similarly fails to identify the existing importance of the site as stepping stone habitat connectivity between Griffith Park and Elysian Park for terrestrial mammal and other species. (Attachment 2.) Surveys for terrestrial mammal, bat, reptile and amphibian species are completely inadequate. Without assessment of the existing species use of the Reservoir, the DEIR cannot accurately assess the Project’s impacts on those

species. This is particularly problematic as the DEIR claims that the Project will serve as a benefit to wildlife. Without knowledge of the existing species, it is impossible to assess whether substantial changes to the site will benefit or harm those species.

The DEIR also includes a blatant inaccuracy in claiming that Southern California black walnut woodland is not present on the Project site. (Attachment 1.) Numerous black walnut trees are present on the site and this is the typical habitat range for this rare species. The DEIR also fails to acknowledge that the CDFW has repeatedly found black walnuts meet CEQA's definition of endangered, rare or threatened species. (CEQA Guidelines, § 15380, subd. (d); Attachment 5, Consultation Letters from CDFW to City re Black Walnut Trees.) All natural vegetation communities that include Southern California black walnut are identified as Sensitive Natural Communities by CDFW.

- **The DEIR Fails to Adequately Analyze Project Components.**

The Project proposes to “create” several types of new habitat on the site, but the DEIR fails to provide an assessment necessary to support the inclusion of this habitat. Additionally, the DEIR does not identify what specific ecosystems or communities would be “restored.” Initially, as noted by experts, the Project would not create new habitat, but instead convert the existing habitat to a different kind of habitat. To do so, the DEIR needs to have assessed the baseline conditions, including wildlife presence and reliance on the Reservoir site, before it can conclude the impacts of this habitat conversion and the types of habitats that would be beneficial.

The DEIR makes a number of unsupported assumptions regarding habitat conversion at the Reservoir. The DEIR assumes the creation of floating island will provide beneficial habitat, but fails to provide substantial evidence in support of this assumption. Similarly, the DEIR touts “wetland restoration” again without support for the benefits of providing the proposed habitat at this location. Similar habitat has been provided at other areas of the City and has served as a draw for nuisance species.

The DEIR also claims the Project includes habitat restoration for the Knoll area of the site, but again, without necessary baseline information, it is impossible to assess the adverse or beneficial impacts of this restoration. (Attachment 2.) The DEIR does not identify the target species for the habitat restoration in the Knoll, preventing an assessment of whether it would serve a beneficial purpose. An understanding which species reside in and use the Reservoir is essential to evaluating impacts to those species.

- **The DEIR Fails to Analyze Impact from Significant Increase in Human Interference with Wildlife.**

Experts Cooper and Zellmer identified the DEIR's lack of analysis of impacts associated with the Project providing significant increases in human interference with wildlife and their habitat. (Attachments 1 and 2.) The CDFW concurred in with these experts' concerns, stating in scoping comments that: “CDFW is concerned that the Project's proposal to increase public access and create recreation opportunities that currently do

not exist may result in disturbances to habitat and wildlife.”

Removal of existing fencing preventing access to habitat by humans and their pets would be a significant change from current baseline conditions that could adversely impact wildlife. The proposed habitat restoration could be hindered by human use of those restored areas. The DEIR fails to disclose, analyze and mitigate these impacts.

The DEIR also fails to analyze and mitigate invasive species impacts, an impact that is increased by increased human intrusion into the Reservoir site. Humans could directly and indirectly introduce new invasive species to the Reservoir. There is no assessment of exotic pest species that have been found in other parks in LA that this project appears to attempt to emulate, like Echo Park Lake and MacArthur Park, where invasive and pest species have had significant impacts on biodiversity. Humans can inadvertently track invasive species into the site on their shoes and clothing. It is also common for humans to purposefully release pets at urban parks and these species can significantly damage the habitat and wildlife diversity.

The DEIR further fails to address the impacts of humans being allowed up to the edge of the reservoirs and to actually kayak on the water. Waterbirds need buffers from human interference and as proposed, the Project eliminates the existing buffers. Thus, the Project could have significant impacts on waterbirds use of the site, but the DEIR fails to analyze these impacts.

- **The DEIR Fails to Assess the Impacts of the Significant Increase in Nighttime Lighting.**

As addressed in detail by the Los Angeles Audubon Society, the Project would significantly increase in night lighting at the Project site. Scholarly assessments have repeatedly found that increases in night lighting, even at the levels proposed for the Project in the DEIR, would have significant adverse impacts on wildlife, limiting the ability of the Reservoir to provide the expanses in useable wildlife habitat that it claims. This lack of analysis also results in a failure to assess mitigation.

- **The DEIR Fails to Analyze the Project’s Impacts on Wildlife Connectivity.**

Expert Zellmer provides detail on the importance of the Silver Lake Reservoir Complex as an important stepping stone habitat connecting Griffith Park and Elysian Park, in an area that was recently designated as of the City’s “Protected Areas for Wildlife.” She identifies a flaw in the DEIR’s assessment in only considering the wildlife connectivity provided by contiguous parcels. She also provides recommendations for necessary evaluations to determine the existing functionality of the Reservoir as providing wildlife connections, and assessment of the species intended to use the site to allow for an evaluation of the Project’s impacts, whether beneficial or adverse, to the use of the site for wildlife movement.

- **The DEIR Fails to Analyze the Potential for Bird Strikes at the Education Center.**

Expert Fine has identified that there are high counts of birds at the Reservoir and that they could be impacted by the addition of the proposed Education Center to the site. (Attachment 3.) He identifies that common occurrence of bird deaths resulting from window strikes and collisions and notes that: “A building with windows erected in the middle of the meadow, a popular area for many birds, could be a death trap for the species that use the reservoir as a migration stop over, as a wintering ground, or a breeding ground.” The DEIR fails to acknowledge or mitigate this impact.

- **The DEIR Fails to Assess the Habitat Impacts of Fuel Management Requirements Around New Structures.**

While the DEIR acknowledges that fuel modification will be required around the proposed new structures on the Project site, it fails to analyze the impacts of this fuel modification to wildlife habitat. For new buildings proposed near areas of habitat restoration, such as the Education Center, this could significantly reduce the habitat value of the area. Fuel management requirements such as irrigation could also introduce invasive species, resulting in further adverse impacts.

- **Recirculation of the DEIR is Required to Address the Fundamental Flaws of the Biological Analysis.**

As set forth above and in the referenced expert comments, the DEIR is fundamentally inadequate in its assessment of biological impacts due to a lack of accurate baseline conditions and failure to disclose, analyze or mitigate many of the Project’s biological impacts. These inadequacies are systemic necessitating significant revision of the DEIR. The DEIR is “(so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (CEQA Guidelines § 15088.5, subd. (a)(4); citation to *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043.) Thus, CEQA requires the City to recirculate a revised DEIR for further public comment.

- **The DEIR’s Analysis of Historic Resources Is Inadequate.**

The Silver Lake Reservoir Complex has been listed as a City Historic-Cultural Monument (HCM #422) since 1989. This designation was approved and adopted by the City as the vision for this open space of land and waters in order to provide protection against demolition or inappropriate alterations, and to encourage long-term stewardship.

The Legislature passed CEQA to enable “all action necessary to provide the people of this state with...enjoyment of aesthetic, natural, scenic, and *historic* environmental qualities.” (Pub. Resources Code, §21001, subd. (b), emphasis added.) The statute explicitly defines “environment” to include “objects of historic or aesthetic

significance.” (Pub. Resources Code, § 21060.5.) Public Resources Code section 21084.1 categorizes historic resources as “mandatory, presumptive, or discretionary,” according to whether and where the resource has been identified as historic. (*League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 906-07.)

“Presumptive” historic resources are those resources included in a local register of historical resources or identified on a qualified historic resources survey. (CEQA Guidelines §15064.5, subd. (a)(2).) The lead agency must treat a presumptive resource as a historic resource unless there is a preponderance of evidence that the resource is no longer historic. Here, the Silver Lake Reservoir Complex’s listing as City HCM #422 makes it a presumptive historic resource, requiring analysis of any potential impacts to this resource. The DEIR’s analysis of impacts to this historic resource is inadequate on several basis.

- **The DEIR Relies on an Impermissibly Lax Threshold of Significance.**

In assessing impacts to historic resources, the DEIR fails to apply the threshold of significance required by CEQA. The CEQA Guidelines also establish the specific threshold of significance for a significant adverse impact to a historic resource. This limits the City from setting its own more lenient threshold. CEQA Guidelines section 15064.5, subdivision (b)(1) provides that a project would have a significant adverse impact on historic resources if it materially impairs the resource’s historic significance. This section also establishes that a project materially impairs the resource’s historic significance by demolishing or materially altering physical characteristics of a resource that “convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources.” (CEQA Guidelines §15064.5, subd. (b)(2).) Thus, a project that would demolish or material alter any character defining features of an historic resource would have a significant impact under CEQA, requiring mitigation or the adoption of a less impactful alternative.

Instead of relying upon the CEQA mandated threshold of significance, the DEIR considers impacts to be significant only if the resource would no longer be eligible as a designated resource. (DEIR pp. 3.5-30-32, 3.5-35.) This threshold is impermissibly lenient because it does not consider impacts significant that would materially alter a character defining feature of the Silver Lake Reservoir Complex if the resource remains eligible for listing as an HCM. As discussed below, several character defining features of this resource would be materially altered or demolished, requiring the DEIR to find a significant impact to historic resources.

- **The Silver Lake Reservoir Complex is an Historic Cultural Landscape and Must Be Assessed as Such.**

As defined by The Cultural Landscape Foundation, which was founded by the author of the *Secretary of the Interior’s Guidelines for Preserving, Rehabilitating, Restoring &*

Reconstructing Historic Buildings, Secretary of the Interior's Guidelines for the Treatment of Cultural Landscapes, cultural landscapes are defined as follows:

Cultural landscapes are landscapes that have been affected, influenced, or shaped by human involvement. A cultural landscape can be associated with a person or event. It can be thousands of acres or a tiny homestead. It can be a grand estate, industrial site, park, garden, cemetery, campus, and more. Collectively, cultural landscapes are works of art, narratives of culture, and expressions of regional identity.

Based on this definition, the historic Silver Lake Reservoir Complex clearly qualifies as a cultural landscape. Despite this, the City's historic resources consultants did not evaluate the Silver Lake Reservoir Complex as a cultural landscape, or use the specific guidelines for cultural landscapes referenced above to assess impacts to this resource. Consultant GPA specifically stated that they were not re-evaluating as a cultural landscape, but did not identify a reason for that lack of analysis. (DEIR App. F, 2019 GPA Consulting Historic Resource Report, p. 14.)

The *Secretary of Interior's Standards for Cultural Landscapes* identify that the "character of a cultural landscape is defined by its spatial organization and land patterns; features such as topography, vegetation, and circulation; and materials, such as an embedded aggregate pavement." These *Standards* also emphasizes new additions to cultural landscapes should be avoided if possible and if not, only non-character-defining features should be altered. Here, as discussed below, the Project would alter character-defining features such as the Knoll and the Ivanhoe Reservoir embankment.

While the site was not evaluated as a cultural landscape, the "landscape characteristics" of the Silver Lake Reservoir Complex were identified in the appendix C to the 2019 GPA Consulting Historic Resource Report. This appendix also identifies the Knoll as a landscape characteristic of the site, as open space.

- **The Project Would Materially Alter Character Defining Features of the Historic Silver Lake Reservoir Complex.**

Table 1 in the 2019 GPA Consulting Historic Resources Report identifies character-defining features of the historic Silver Lake Reservoir Complex. These include, but are not limited to: the Ivanhoe Reservoir, Ivanhoe Reservoir Perimeter Path, the Knoll, the Concrete Perimeter Wall, the Silver Lake Reservoir Perimeter Path, the Silver Lake Reservoir, the Grassy Patch, East Landscaped area and more. The Project would materially alter several of these character defining features, but the DEIR fails to disclose that such alterations would result in a significant impact.

Appendix F identifies that: "Because the existing embankments are a primary character-defining feature of the Silver Lake and Ivanhoe Reservoirs, providing increased access to the water by substantially altering the existing embankments would not comply with the Standards and may result in a significant impact under CEQA." The Ivanhoe Reservoir

embankment would be materially altered by the addition of a new observation deck, wetland terraces and footpaths. (DEIR 2-16.)

The DEIR fails to disclose this material alteration of the embankment would be a significant impact to an historic resource under the threshold of significance set forth by the CEQA Guidelines. (See Section III.B.1 above.) Instead, the DEIR merely claims changes to the embankment “would not affect the overall eligibility of the Reservoir.” (DEIR p. 3.5-31.) This is inadequate to disclose and provide mitigation for the Project’s impacts to historic resources.

The Project would also materially alter the Knoll, another character-defining feature of the Silver Lake Reservoir Complex. The historic resources report’s description of the Knoll identifies the importance of the unchanged and natural condition of this feature:

Topographic maps from 1896 to 2018 were examined to ascertain the elevation of the Knoll to identify potential changes in grade over time. This analysis shows that the Knoll appears to be a naturally occurring feature visible on maps as early as 1896, with a consistent grade that does not change in almost 120 years. While there are minor changes to the foliage that populates the Knoll, it is consistent with the evolution of a natural landscape *with minimal human intervention*, i.e. the coverage becomes more substantial with time. The Knoll appears to retain its original character throughout the development of the SLRC.

(Appendix F, ESA Report p. 24, emphasis added.)

The Project would result in significant physical additions to this character-defining feature as well as a change in use from an area with minimal human intervention, to an area with significant human interaction. The Project would add nature trails to the Knoll, increasing human interactions. (DEIR p. 2-15.) A 1,200 square foot pavilion and seating area would also be constructed in the Knoll, and lighting would be added to this currently natural area. (*Ibid.*)

The most significant addition to the Knoll is the construction an Education Center at the base of the Knoll. This new addition would materially alter the natural condition of the Knoll by adding in a created new habitat on the roof of the Education Center. This would be a materially alteration of a character-defining feature of the HCM and of a landscape feature of this cultural landscape. Construction of the Education Center would also be inconsistent with *Secretary of Interior’s Standard 10*, which requires that “[n]ew additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.” (36 C.F.R. 67.7.) The Education Center would require significant grading and changes to the site, which will leave the Knoll impaired if the building was removed in the future.

The DEIR fails to identify these alterations of the Knoll as a significant impact of the Project.

- **The DEIR Fails to Analyze and Disclose All the Project’s Inconsistencies with Applicable Land Use Plans and Land Use Plans, Policies, and Regulations Adopted to Avoid/Mitigate Environmental Impacts.**

Under CEQA, an EIR is required to analyze *any* inconsistencies with applicable land use plans. (CEQA Guidelines § 15125, subd. (d).) Additionally, a project would result in a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (DEIR, p. 3.11-11.) The DEIR fails to analyze all such inconsistencies and fails to disclose significant land use impacts.

- **The DEIR Fails to Address the Project’s Inconsistency with SB 1425 Requirements for Open Space Elements.**

Government Code section 65560 et seq. provides for the protection of open-space land and discourages conversion of such land to non-open-space uses. (Gov. Code § 65561.) The EIR must analyze the Project’s consistency with the forthcoming updates to the General Plan Open Space Element, pursuant to the recently passed Senate Bill (“SB”) 1425. SB 1425 requires the City to review and update its open space element, including preparing plans and an action program to address specified objectives, by January 1, 2026. (See https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220SB1425.)

One of these objectives requires that the open space element address rewilding opportunities, defined as (1) opportunities to preserve, enhance, and expand an integrated network of open space to support beneficial uses, such as habitat, recreation, natural resources, historic and tribal resources, water management, and aesthetics; or (2) establishing a natural communities conservation plan to provide for coordinated mitigation of the impacts of new development. This provision emphasizes the need for localities’ open space elements to protect natural open space that provides multiple environmental benefits, such as preserving wildlife corridors and connectivity.

The DEIR does not address these new requirements, which will have to be in place prior to the completion of the Project. These requirements are relevant to the Project, which proposes to develop an area that is important for wildlife connectivity. (Attachment 2, Zellmer Assessment.) The Project could eliminate one of very few rewilding opportunities in the City’s urban environment. The DEIR must analyze the Project’s inconsistency with the SB 1425 requirements.

- **The DEIR Fails to Disclose the Project’s Inconsistency with the General Plan**

Framework Element Open Space and Conservation Goals.

In addition to its failure to analyze the Project's inconsistency with the required open space updates, the DEIR also fails to disclose that the Project is inconsistent with Objective 6.1 of the Framework Element Open Space and Conservation Goals:

Protect the City's natural settings from the encroachment of urban development, allowing for the development, use, management, and maintenance of each component of the City's natural resources to contribute to the sustainability of the region.

As discussed further by biological expert Dr. Amanda J. Zellmer, the Project is inconsistent with this Objective because multiple aspects of the proposed plan will degrade rather than enhance the natural resources of the City. Expert Zellmer stated:

First, removal of fencing will allow for increased human presence within natural areas such as the Knoll and within the Eucalyptus Grove. Human activity in these areas will reduce the quality of these habitats for use by wildlife (Kowarik 2011). Second, proposed added structures throughout the Silver Lake Reservoir will add to increased encroachment of urban development within existing natural areas. Finally, the creation of a Promenade and walking paths that cross through the Knoll and the Eucalyptus Grove will fragment existing habitat, both physically and because of the increase of human activity along these trails. While walking trails may not be a deterrent to larger-bodied wildlife species, smaller species and ground-dwelling species such as snakes will experience habitat fragmentation as a result of added trails.

(Attachment 2, Zellmer Assessment.)

The DEIR's rationale for consistency, on the other hand, was conclusory and failed to address the Project's impacts on wildlife connectivity, lacking the required substantial evidence to support its claim. (DEIR p. 3.11-12.) Thus, the DEIR failed to analyze and disclose this inconsistency in contravention of CEQA's requirements.

- **The DEIR Fails to Disclose the Project's Inconsistency with All Relevant Community Plan Policies.**

The Silver Lake-Echo Park-Elysian Valley Community Plan (Community Plan) applies to the Project site. (See <https://planning.lacity.org/plans-policies/community-plan-area/silver-lake-echo-park-elysian-valley>, incorporated by reference.) This Community Plan includes a number of policies relating to Open Space and the EIR must evaluate whether

there are any inconsistencies with these policies.

The Project site has a land use designation of Open Space under the Community Plan and meets the Community Plan's definition of open space as "land that is essentially free of structures and serves to provide recreational opportunities" (Attachment 6, Community Plan Excerpts, p. 58; <https://planning.lacity.org/odocument/3cea4f7c-87a0-41af-bcdf-187b9b0bade9/SLKplanmap.pdf>, incorporated by reference.)

Objective 5-1 requires the City to "Preserve *existing* and develop new open space resources." (Attachment 6, Community Plan Excerpts, p. III-39, emphasis added.) Policy 5-1.1 requires the City to "Encourage the retention of passive and visual open space which provides a balance to the urban development of the Plan area." (*Ibid.*) The Community Plan relies on the Plan Map to effectuate Objective 5-1 and Policy 5-1.1, implementing the Plan Map to "designate[] areas for open space, thus protecting them from encroachment by more intense uses." (*Ibid.*)

As proposed, the Project would be inconsistent with this policy because it would allow for the encroachment of more intensive use of the Reservoirs and would remove existing open space and wildlife habitat. This inconsistency is made all the more significant by the increasing density of urban development in the Community Plan area. The Project would construct several large buildings on the Project site, as well as install walking paths, eliminating significant amounts of open space. Despite this, the DEIR ignores the Project's encroachment on open space, concludes that the Project is consistent with Objective 5-1, and is silent about Policy 5-1.1. The DEIR must analyze this inconsistency and disclose it as a conflict with the Community Plan.

- **The DEIR Fails to Disclose the Project's Inconsistency with the Los Angeles Zoning Code.**

The Project site has a zoning designation of Open Space. Under the Los Angeles Zoning Code, there are limited uses allowed in the Open Space zone and no building or structure is allowed except for the following:

Parks and recreation facilities, including: bicycle trails, equestrian trails, walking trails, nature trails, park land/lawn areas, children's play areas, child care facilities, picnic facilities, and athletic fields (not to exceed 200 seats in park) used for park and recreation purposes.

Natural resource preserves for the managed production of resources, including, but not limited to, forest lands, waterways and watersheds used for commercial fisheries; agricultural lands used for food and plant production; areas containing major mineral deposits ("G" Surface Mining Districts) and other similar uses.

Marine and ecological preserves, sanctuaries and habitat protection sites.

Sanitary landfill sites which have received certificates of closure in compliance with federal and state regulations.

Public water supply reservoirs (uncovered) and accessory uses which are incidental to the operation and continued maintenance of such reservoirs.

Water conservation areas, including percolation basins and flood plain areas.

(Attachment 7, Los Angeles Municipal Code §12.04.05.)

While some of the Project elements are allowed in the Open Space zone, others do not appear to be. The EIR must evaluate whether all of the buildings and structures proposed as part of the Project comply with the City's zoning regulations. For example, the proposed multi-purpose building and proposed Education Center do not appear to fall within the allowable uses pursuant to Los Angeles Municipal Code §12.04.05. The DEIR relies on a conclusory and unsupported statement that these structures "would continue to be consistent with existing uses." (DEIR, p. 3.11-19.) That fails to address the inconsistency of this development with the zoning regulations for this Open Space site. The EIR must analyze this inconsistency.

Additionally, as discussed above, the Silver Lake Reservoir Complex is a designated Historic Cultural Monument. As such, development on this Open Space requires approval of a conditional use permit. (Los Angeles Municipal Code §12.04.05(B)(1)(b).)

- **The DEIR Fails to Analyze and Disclose the Project's Inconsistency with Wildlife Corridor Protections.**

The Project site is designed by the City as a Protection Area for Wildlife (PAW). PAWs are designated "to protect biologically important areas that are crucial for maintaining and preserving the existing level of biological diversity found within the City." (Attachment 8, Excerpts of Protected Areas For Wildlife & Wildlife Movement Pathways Final Report ("PAW Report"), available at https://planning.lacity.org/odocument/13de48cd-2fae-4ce7-ab4b-3ae213020b87/2021-02-26_ESA_PAW-WMP_Final_Report.pdf, p. 6.) PAWs are meant to protect wildlife corridors within the City, and maintain habitat connectivity for species.

The Silver Lake Reservoir was designated as a PAW because it is "Habitat that at some point in the life cycle of a species or suite of species serves as concentrated breeding, feeding, resting, or migrating grounds and is limited in availability within Southern California or within the City of Los Angeles. This includes areas that provide for the conservation of relatively undisturbed examples of the original natural biotic communities (i.e., biodiversity) within the City of Los Angeles." (Attachment 8, Excerpts of PAW Report, p. 9.) As the City itself identified, the Reservoir "supports a variety of bird species, and is important for preserving biodiversity." (p. 77.)

The DEIR fails to discuss the importance of the PAWs designation for the Reservoir, or the Project's potential to conflict with objectives of this designation. As discussed further in the expert report from Dr. Amanda J. Zellmer, the Project clearly conflicts with the goal of the PAWs designation to maintain and preserve biological diversity and wildlife connectivity in the City. (Attachment 2, Zellmer Assessment.)

Additionally, a new Wildlife District Ordinance, based upon the PAW Report, is currently pending before the City. (https://planning.lacity.org/plndoc/Staff_Reports/2022/12-08-2022/CPC_2022_3413_and_CPC_2022_3712__2_.pdf, incorporated by reference.) This Ordinance would set development limits for the newly created Wildlife District, which includes the Reservoir. Sites such as this are key to creating the wildlife connectivity the Wildlife District Ordinance is intended to create. As discussed in Section III.A.5 and the comments from Expert Zellmer, the DEIR fails to provide adequate analysis of the existing wildlife connectivity provided by the Project site or the impacts the Project may have on wildlife corridors. The DEIR should further analyze whether the development proposed as part of the Project would be consistent with the development regulations in the draft Wildlife District Ordinance.

- **The DEIR Fails to Disclose, Analyze and Mitigate Significant Impacts Relating to Noise and Vibration.**
- **Effects of Noise Pollution on Health Are Extensive.**

“[T]hrough CEQA, the public has a statutorily protected interest in quieter noise environments.” (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1380.) Despite this clear mandate to analyze noise impacts, the DEIR omits a discussion of the extensive health impacts of noise exposure, as required by CEQA (Cf. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 521).

Excess noise pollution can cause hearing damage and loss. Loud noise, either experienced as a single event or continuously over time, can damage cells in the inner ear that detect sound and help transmit information on sound to the brain. (https://www.cdc.gov/nceh/hearing_loss/how_does_loud_noise_cause_hearing_loss.html, incorporated by reference.) Damage to these receptor cells is permanent and cannot be repaired. (*Ibid.*) Such damage can make it difficult to hear, including causing difficulties in understanding speech. (*Ibid.*)

Sound level is measured in dBA. (https://www.nonoise.org/library/suter/suter.htm#physical_, incorporated by reference.) In 1974 the EPA recommended that the equivalent A-weighted sound level over 24 hours ($L_{eq(24)}$) be no greater than 70 dBA to ensure an adequate margin of safety to prevent hearing loss and damage. (<https://www.nonoise.org/library/levels74/levels74.htm>, incorporated by reference.) To prevent interference with activities and annoyance, the EPA recommended a day-night average sound level no greater than 45 dBA for indoors and 55 dBA for outdoors.

The Project would result in significant and unavoidable construction and operational noise impacts. The DEIR must relate these health impacts of excessive noise exposure to the Project's significant noise impacts.

- **The DEIR Fails to Adequately Disclose Construction Noise Impacts**

In describing the receptors that would be impacted by the Project, the DEIR divides the hundreds of households surrounding the Silver Lake Reservoir Complex into eight receptor areas. (DEIR p. 3.12-8, Fig. 3.12-2.) The DEIR must clearly disclose that there are numerous sensitive receptors within each of the receptor areas. The DEIR acknowledges that construction noise levels in all 8 receptor areas would exceed thresholds of significance, but fails to disclose the number of households this would impact. By failing to do so, the DEIR fails to disclose the full magnitude of the Project's significant construction impacts on sensitive receptors.

Additionally, while the DEIR claims a Project construction timeline of less than 5 years, construction is fully dependent on funding availability. (DEIR 2-41.) The DEIR fails to disclose the estimated cost for this Project is **\$286 million** and there is currently no funding allocated for the Project. There is also no disclosure of where this funding would come from, when it might be available and how much would be available at a time. All of these factors impact the length of the highly impactful construction period, likely making it much longer than disclosed in the DEIR.

- **The DEIR Fails to Adequately Mitigate Construction Noise Impacts.**

The DEIR relies on several PDFs to partially mitigate construction noise impacts. As discussed in Section II above, this violates the requirements and purpose of CEQA because it fails to fully disclose impacts and then assess the efficacy of the mitigating PDFs.

Mitigation measures Noise-1 and Noise-2 are also violative of CEQA due to a lack of full enforceability. These measures, Noise-1 requiring noise enclosures for equipment and Noise-2 requiring temporary noise barriers, both include caveats that eliminate their full enforceability. They are not required if the enclosure or barrier would "pose a safety risk or unreasonably prevent access to the construction equipment [or area] as deemed by the on-site construction manager." (DEIR 3.12-36.) "Safety risk" and "unreasonably prevent" are not defined by the DEIR. Instead, a determination regarding whether these conditions exist is left to a later conclusion by the construction manager for the project proponent. CEQA does not allow this deferred determination, particularly by an individual with a clear bias towards continuing the construction. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794.)

Mitigation Measure Noise-5 is also inadequate because it fails to include performance standards. This measure requires specified setbacks for "[t]he operation of construction equipment that generates high levels of vibration," but fails to define what would be

considered high levels of vibrations. The lack of certainty for the measure makes it inadequate under CEQA. (CEQA Guidelines § 15126.4.)

- **Operational Noise Impacts May Be More Significant Than Disclosed**

The DEIR claims the increase in daily visitors to the significantly expanded public spaces for all park uses at the Silver Lake Reservoir Complex would only be 383 people. This estimate seems exceedingly low, given the significant expansion of uses and public spaces, as well as the large population of the City. The DEIR fails to provide adequate evidence to support this visitor increase number. This may result in the DEIR underestimating the impacts associated with Project operations, including but not limited to noise and traffic impacts. Without further information, the DEIR's analysis of operational noise impacts is inadequate.

Additionally, in analyzing operational noise impacts the DEIR claims "is not anticipated" that there would be any nighttime use of the Project site by people. (DEIR pp. 3.12-43, 45.) However, there are no physical measures included in the Project to prevent nighttime access to and use of the site. Thus, the DEIR's assumption lacks evidentiary support. Noise generated by nighttime use would likely result in significant adverse impacts to the surrounding quiet residential community.

- **Amplified Sound Must Be Prohibited to Mitigate Significant Noise Impacts.**

The Project proposes to allow an unlimited number of large special events to occur in The Meadow area of the site, with events every weekend in the summer months. (DEIR p. 2-54.) These events would take place from noon to 10 p.m. and include activities such as outdoor concerts, movies and luncheons. (*Ibid.*) The DEIR claims these events would have up to 600 daily attendees, although as discussed above, the DEIR's estimate of visitors is unsupported and likely too low.

Many of the events would include amplified sounds, which would be allowed until 10 p.m. The DEIR acknowledges that the amplified sound would have significant adverse impacts on the surrounding residents (and the wildlife in the Reservoir), but fails to include any restrictions for amplified sound that would reduce it below a level of significance, merely claiming it is an unavoidable impact. (DEIR p. 3.12-51.) Even with the requirement that sound amplification speakers be located in certain locations "if feasible," the DEIR acknowledges impacts would remain significant.

Projects with significant environmental impacts *may not* be approved "if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects . . ." (Pub. Resources Code § 21002.) Here, a mitigation measure prohibiting the use of sound amplification equipment at the Silver Lake Reservoir Complex would substantially lessen the significant adverse operational noise impacts associated with special events. The DEIR provides no reasoning why such a mitigating condition would be infeasible. Thus, the Project cannot be approved without such provision.

- **The EIR Fails to Adequately Analyze and Disclose the Project’s Hydrological and Water Quality Impacts.**

The DEIR fails to disclose all the Project’s hydrological and water quality impacts, specifically with regards to groundwater recharge. Threshold 3.10-2 states: “Would the proposed Project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?” (DEIR p. 3.10-28.) The EIR concludes that there will be no such impacts, despite the fact that, by the DEIR’s own admission, the Project would require “approximately 11.5 acres of asphalt paving that would *impact* the site’s capacity for groundwater recharge.” (DEIR p. 3.10-28.) The DEIR also states that “The addition of the paving would reduce recharge within the footprint of the new pavement.” (*Ibid.*)

Despite the conversion of 11.5 acres from pervious to impervious surface, the DEIR concludes that the Project “would implement a decentralized drainage strategy to redirect that stormwater into the reservoirs.” (DEIR, p. 3.10-28.) The DEIR does not explain or present any plans for such a strategy; instead, it states, in a separate section of the DEIR, an extremely vague Project Design Feature purporting to implement such a strategy:

PDF-UTIL-3: Decentralized Drainage Strategy. To prevent untreated surface runoff from entering the reservoir waters, proposed Project will implement decentralized drainage facilities to capture and filter or infiltrate stormwater runoff from the developed portions of the Project site.

(DEIR, p. 3.18-19 [Utilities and Service Systems].)

PDF-UTIL-3 functions as a mitigation measure, because it is implemented to mitigate the impact of the Project’s increase in impervious surface. As discussed in Section II, Project Design Features such as PDF-UTIL-3, which are applied to reduce or avoid Project impacts, are improper under CEQA because they compress the analysis of mitigation and impacts into a single issue. (*Lotus, supra*, 223 Cal.App.4th 645, 656.) Thus, the DEIR cannot conclude the Project will have no significant impacts on groundwater recharge under Threshold 3.10-2 when it relies on the implementation of PDF-UTIL-3 to make that determination.

Further, PDF-UTIL-3 is impermissibly deferred mitigation. Deferred mitigation violates CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; CEQA Guidelines § 15126.4(a)(1)(B).) Deferral is permitted when a mitigation measure commits to specific performance standards, but no such standards are included here. Instead, the DEIR states simply that the Project “will implement decentralized drainage facilities,” but provides no details regarding such facilities, nor any performance criteria for such facilities. (DEIR p. 3.18-19.)

The DEIR relies on this completely unformed “decentralized drainage strategy” to make

an unsupported conclusion that the Project would redirect stormwater runoff arising from the increase in impervious surfaces to the Reservoir. Moreover, the DEIR offers no explanation or support for the conclusion that redirecting runoff to the Reservoir for groundwater recharge and infiltration is analytically similar enough to the recharge and infiltration that would have occurred over 11.5 acres of impervious surface without the Project, such that there would be no impact. Because an EIR cannot rely on unsupported conclusions, the hydrology analysis is deficient.

Even if the DEIR's reliance on an undefined decentralized drainage strategy were valid, which it is not, the DEIR does not demonstrate that the Reservoir could handle such redirected stormwater without overflowing. The DEIR, in analyzing Impact 3.10-3, found no significant impact. But the DEIR provides no calculations or quantitative analysis to support its assertions. Instead, the DEIR states that "in the unlikely event of discharge due to increases in water levels, the spillway has capacity to convey 74 cubic feet per second." (DEIR, p. 3.10-31.) Merely stating the rate of conveyance from the spillway does not provide the public or decisionmakers with the necessary information to understand whether the Reservoir could withstand increased capacity. Thus, the DEIR's analysis is deficient and its conclusions are not supported by the required substantial evidence.

Finally, the DEIR relies on compliance with MS4, NPDES, and LADPW regulations, including the City's LID regulations. (DEIR, p. 3.18-18.) Yet the DEIR lacks any LID Plan. At a minimum, the DEIR must include the Infiltration Feasibility Screening to determine what sort of infiltration is available for the Project. (See LID Manual, available at https://www.lacitysan.org/cs/groups/sg_sw/documents/document/y250/mde3/~edisp/cnt017152.pdf, pp. 22-23.)

- **The EIR Fails to Adequately Analyze and Disclose the Project's Public Services and Public Safety Impacts.**

The Los Angeles Fire Department (LAFD) utilizes water from the Silver Lake Reservoir Complex for firefighting operations. (DEIR p. 3.14-3.) However, the Project proposes recreational uses of the Reservoir Complex as well, such as guided kayak tours, which are not adequately defined in the DEIR. (DEIR, p. 2-29; see Section I.) The DEIR does not in any way analyze whether such activities would impact performance objectives for firefighting activities that rely on the Reservoir Complex. The DEIR must analyze these impacts.

Additionally, while swimming will be prohibited in the Reservoir Complex, such recreational activities and the removal of fencing around the Reservoir may precipitate increases in the need for rescue efforts by the LAFD or other emergency services. This is especially important given the DEIR's inadequate description of reservoir edge enhancements (see Section I), that lack a clear description of emergency egress from the reservoirs. That this may happen is not speculative; even with the fencing in place, there were at least twice in 2019 that people required rescue out of the Reservoir after climbing

the fence. (See the following articles regarding the rescues, incorporated by reference https://www.theeastsiderla.com/archives/woman-rescued-from-silver-lake-reservoir/article_5f5f025a-07ea-5f84-8f01-dae2c29ea3d7.html#comment-6239668; https://www.theeastsiderla.com/neighborhoods/silver_lake/man-suffers-hypothermia-after-swimming-in-the-silver-lake-reservoir/article_ad974356-871d-11e9-8dda-633855a5dfffa.html; <https://www.lamag.com/citythinkblog/swimming-in-silver-lake-hypothermia/>.) By removing a barrier to the Reservoirs, the City is making these purposefully occurrences, as well as accidental entry to the water by visiting public, including children, significantly more likely and increasing the City's legal liabilities.

The DEIR must analyze these impacts on public safety and on public services that may be required for rescues.

- **The DEIR Fails to Support Assumptions Relied Upon for Traffic Assessment.**

The DEIR concludes the Project would not have significant traffic impacts, but as set forth in Section II, this conclusion improperly relies upon PDFs as mitigation. This provides inadequate disclosure of impacts and lack of enforceability of the mitigation. (DEIR p. 3.16-11.)

The DEIR's traffic analysis also relies on several unsupported assumptions. As discussed in Sections III.D.4 and 5, the DEIR lacks adequate evidentiary support for its claims regarding the number of new visitors to the Project site. This assumption regarding the number of visitors serves as the basis for the increase in traffic resulting from the Project, meaning that determination also lacks adequate support. Additionally, in assessing traffic increases, the DEIR assumes 70 percent of site visitors would walk, bike or take public transit to the site, significantly reducing the assumed number of new vehicle trips to the site. The DEIR lacks support for the assumption regarding how attendees would access the site as well.

The DEIR also fails to provide an adequate analysis of the proposed changes to Silver Lake Boulevard, which includes narrowing vehicle lanes and converting to diagonal parking to provide 135 new parking spaces. The DEIR does not assess the traffic congestion that would result for vehicles entering or exiting these spaces on a narrowed roadway. This is particularly concerning for its impacts to emergency vehicles accessing the Project site and the surrounding community.

- **The DEIR Fails to Analyze Impacts to Scenic Quality of the Site.**

As a matter of law, the EIR must comprehensively address the significant aesthetic effect of the Project. (*See Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597.) Here, the Project site has little human interference or development, providing views that focus on nature, not the built environment. The Project proposes to wedge as much development as possible onto this site, completely

converting the scenic quality of the site. Instead of acknowledging this impact, the DEIR improperly assumes that the construction and site changes will have beneficial visual impacts. This is contrary to the values for the site that the surrounding community has identified as most important: serenity, peace and tranquility. Drastically changing the visual character of the Reservoir site will have adverse impacts on the feel provided by the current views of the site.

- **The DEIR Alternatives Analysis Is Inadequate.**

The City has a duty under CEQA to evaluate a reasonable range of alternatives to the environmentally damaging proposed Project. (*Laurel Heights I, supra*, 47 Cal.3d at 400.) As the California Supreme Court has stated:

Under CEQA, the public agency bears the burden of affirmatively demonstrating that . . . the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.

(*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134, emphasis added; accord *Village Laguna of Laguna Beach v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1035.) As the Court has said, while an EIR is "the heart of CEQA", the "core of an EIR is the mitigation and alternatives sections." (*Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d 553, 564.) Preparation of an adequate EIR with analysis of a reasonable range of alternatives is crucial to CEQA's substantive mandate to "prevent significant avoidable damage to the environment" when alternatives or mitigation measures are feasible. (CEQA Guidelines § 15002(a)(3).)

- **CEQA's Substantive Mandate Requires Adoption of Feasible Alternatives and Mitigation Measures.**

Projects with significant environmental impacts *may not* be approved "if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects . . ." (Pub. Resources Code § 21002.) More specifically, CEQA states:

Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless . . . :

(a). . . (3) Specific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(Pub. Resources Code § 21081.) It is settled law that:

CEQA contains *substantive* provisions with which agencies must comply. The most important ... is the provision requiring agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects.

(*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41, italics added.)

“Feasible” is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Pub. Resources Code § 21061.1.) The definition *does not* require the agreement of the project applicant. “Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves *whenever* it is feasible to do so.” (*Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508, emphasis added.)

- **The DEIR Cannot Narrowly Define Project Objectives.**

An EIR is required to identify project objectives, are a “clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project and may discuss the project benefits.” (CEQA Guidelines § 15124.) However, reliance on unduly narrow project objectives, or giving “a project’s purpose an artificially narrow definition” violates CEQA (*In Re Bay Delta Coordinated Environmental Impact Report Proceedings* (2008) 43 Cal. 4th 1143, 1166.)

CEQA prohibits defining or interpreting the project objectives in such a way as to only allow for the proposed project. (*We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683, 692.) Narrowly defining objectives and using that to dismiss consideration of potential alternatives prejudicially prevents informed decision making and public participation. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668, 671.)

Here, the DEIR includes a broad overarching project purpose, a purpose that Alternatives 2 and 3, as well as the Alternative Hybrid 3+2 we propose below, all meet:

Create a clear, bold design that repurposes the SLRC into a public park, while preserving and enhancing its unique character. The underlying purpose of the Project is to put the SLRC to a beneficial public park use because it is no longer usable for storing potable water due to government regulations. Because LADWP is required to maintain the reservoirs for other environmental purposes, including maintaining the dams, the proposed Project would use the reservoirs as part of a park to benefit area residents.

(DEIR pp. 5-1 to 5-2.)

The DEIR also identifies additional objectives and goals of the Silver Lake Reservoir Master Plan Complex. As an initial matter, the objectives and goals, as well as the City's interpretation of those objectives and goals, must be guided by biological data and not unsupported assumptions. Science and facts need to be the basis for any proposed changes to the Reservoir. Biological experts have provided extensive comments on the significant lack of data to support the City's claims of benefits from the Project. (See Section III.A.) As part of the revisions to the DEIR, followed by recirculation, the project objectives must be reevaluated in light of accurate and complete scientific data. SLWS has proposed Alternative Hybrid 3+2 specifically to allow for a scientific data driven plan for the Reservoir.

Additionally, Alternatives 2, 3 and Hybrid 3+2 provide the benefits identified by the objectives, especially when these alternatives are properly defined as discussed below. In several instances, such as preserving the Reservoir's unique character and enhancing and expanding habitat, the alternatives would better meet these objectives than the proposed Project.

- Preserve and enhance the unique character of the SLRC with increased points of access, improved internal circulation and access to the water's edge, and increased spaces for community and family gatherings.
- Expand existing active recreational uses and increase passive recreational uses.
- Enhance and expand wildlife habitat by introducing wetland and aquatic ecologies and improving upland habitat.
- Provide opportunities for the public to connect with nature and provide facilities for onsite environmental education and stewardship while limiting human/wildlife interactions through design and operations to protect habitat.
- Allow for continued underlying LADWP operations, access, and future use of designated areas of the site, thereby allowing continued use of the reservoirs and adjacent facilities that are intended to remain for proprietary use by LADWP.

(DEIR p. 5-2.) However, as discussed below, in addition to failing to rely on biological data to define the Project, the DEIR also too narrowly interprets several of these objectives as only being fully met if the specific components included in the proposed Project are included, failing to recognize these objectives can be met in a number of different ways. This narrow interpretation violates CEQA.

- **The Revised DEIR Must Consider Alternative Hybrid 3+2.**

The City has a duty under CEQA to evaluate a reasonable range of alternatives to the

proposed Project. (*Laurel Heights I, supra*, 47 Cal.3d at 400.) As the California Supreme Court has stated:

Under CEQA, the public agency bears the burden of affirmatively demonstrating that . . . the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.

(*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134, emphasis added; accord *Village Laguna of Laguna Beach v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1035.) As the Court has said, while an EIR is "the heart of CEQA", the "core of an EIR is the mitigation and alternatives sections." (*Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d 553, 564.) Preparation of an adequate EIR with analysis of a reasonable range of alternatives is crucial to CEQA's substantive mandate to "prevent significant avoidable damage to the environment" when alternatives or mitigation measures are feasible. (CEQA Guidelines § 15002(a)(3).)

As discussed above, the DEIR is substantially deficient as an informational document. As part of rectifying those inadequacies in a revised and recirculated DEIR, an additional biological data driven alternative must be considered. SLWS proposes Alternative Hybrid 3+2 as that alternative. This proposed alternative takes into consideration the critiques of the Project by biological experts and seeks to provide an alternative that limits expansions of use and new construction to that which has evidentiary support for its benefits and lack of adverse impacts.

Alternative Hybrid 3+2 focuses on providing a serene, wildlife experience at the Silver Lake Reservoir Complex. The Reservoir is located in a park-rich area of the City, where standard public parks are readily available, but not areas that can provide residents with a true wildlife connection by using data and research to determine the best ways to preserve, enhance, expand and maintain habitat for wildlife. (See Los Angeles Countywide Comprehensive Park & Recreation Needs Assessment, Appendix A, incorporated by reference and accessible here: <https://lacountyparkneeds.org/final-report/>.) This alternative proposes only those additions that are shown by data to benefit wildlife. By doing so, the site will be able to provide the best wildlife experience and education for the public. Moreover, limited funding for developments in parks should not be focused on a park-rich area; funding for those facilities should be distributed more evenly to park-poor areas of the City.

The basics of Hybrid 3+2 are as follows:

- Any changes on the site should occur gradual over time, with requirements to reevaluation of wildlife use of the site after each change to ensure it is providing the benefits intended.
- Further design and implementation of any changes to the Project site must be done in collaboration with a qualified ecologically or environmentally-focused entity

(such as Urban Wildlands, LA Audubon or Land IQ) to ensure the biological data drives the design.

- There should be no kayaking or other boating use other than that required by DWP for maintenance purposes allowed in the Reservoirs. This should not have been included in any of the alternatives or the proposed Project because there has been a clear consensus by the public that this is not an appropriate use of the site. Moreover, biological experts have identified that this increase in human interference in the water would adversely impact waterbirds use of the site.
- There would be limits on public access to the site.
 - No nature trails carved into the hillside and wildlife habitat, which expert evidence shows would adversely impact wildlife ability to use the site.
 - If an assessment shows it would not have adverse impacts, an elevated ADA-compliant wooden walkway with viewing platforms could be included from the top of the Armstrong perimeter path to the top of the Knoll. The walkway should be elevated to allow terrestrial wildlife to pass below. This would provide an excellent educational opportunity for the public to view wildlife and the entire Reservoir while limiting interference.
 - The walkway and viewing platforms should also be fenced for human safety, with access limited to dawn to dusk.
 - Access should also first be limited to docent lead walks until it can be assessed whether expanding beyond these walks would adversely impact the wildlife.
- The site should include wildlife friendly perimeter fencing of equal height to the existing fence with gates that limit nighttime access, and potentially daytime access during specific wildlife-sensitive times such as nesting seasons for raptors and herons.
- Additional land-based viewing platforms, away from the water's edge, could be included if added in a manner that would not impact species. They could provide educational opportunities, such as telescopes to view waterbirds, and signage regarding migrations and bird identities.
- Wetland habitat and terraces, as well as habitat islands would not be included unless it is shown, through collaboration with ecological or conservation entities as identified above to be beneficial for wildlife the City seeks to attract to the site. As biological experts have identified, the DEIR fails to provide evidentiary support for the inclusion of these features.
- No ornamental or rain gardens should be included in the Meadow due to drought conditions and to allow this area to serve as open space for people and wildlife instead of being cut into pieces.

- The expansion and protection of a wildlife experience at the site would provide for educational opportunities that are incredibly rare in the City, and especially important for those unable to travel to our National Parks or go on commercial wildlife tours such as those provided by National Geographic or Alaskan cruises. It could also provide for guided tours by and about the Gabrielino Tongva Indian Tribe. Construction of an Education Center is not required to provide these opportunities.
- Public restrooms could still be provided if designed in an ecologically-friendly manner. The City should consider a design similar to the Recreation and Parks Department's self-cleaning restrooms at the North Hollywood Recreation Center, which were recently found to be a finalist for public restroom of the year: <https://www.bestrestroom.com/other-finalist/?finalist=3307&bryear=2022>
- Updates should still be included for the Recreation Center to enhance recreational opportunities. Minor updates to the Dog Park should also be provided.
- Additional aspects of Hybrid 3+2:
 - No special events;
 - No new lighting;
 - Only damaged or dying trees should be removed from the site;
 - Promenade to be moved away from the water's edge and limited to areas that would not impact waterbirds and other wildlife species;
 - No overlook or seating terraces;
 - No picnic tables or BBQ facilities to be added;
 - No relocation or re-sizing of the South Valley playfield or basketball court;
 - No new entry plaza or seating in the South Valley;
 - No new Multi-Purpose Facility in the South Valley;
 - No fitness circuit;
 - Bike improvements should be provided, but no new parking;
 - Any other features from the proposed Project not explicitly addressed here is assumed to be eliminated from this alternative.

Alternative Hybrid 3+2 would repurpose the Reservoir into a wildlife park preserve, while still retaining and enhancing the unique character of this site. It would allow for an increase in public access, tempered by data demonstrating such access would not be harmful to wildlife use of the habitat portions of the site. It would increase recreational activities by updating the Recreational Center and Dog Park. It would also provide new recreational and educational opportunities through birdwatching and use of new walkways. Hybrid 3+2 would significantly increase the ability of the public to connect with nature at the site by focusing on the preservation of wildlife habitat. Thus, this is a feasible and less-impactful alternative.

Further, this alternative, unlike the proposed Project, is a more innovative concept for a

public park, based on forward-thinking ideals regarding the environment, wildlife biodiversity and climate issues. As with other developments, business-as-usual should not be the focus for public open space. Finding creative ways for the public to visually access the wildlife, the habitat improvements and protections Hybrid 3+2 would provide through viewing platforms and 24-hour online trail cameras can meet the objectives without damaging an existing important resource for numerous species.

For all of these reasons, Alternative Hybrid 3+2 is feasible and less impactful, preventing the City's approval of the proposed Project with its significant and unavoidable impacts.

- **Alternative 2 in a Less Impactful, Feasible Alternative.**
- **The DEIR Includes an Improperly Narrow Description of Alternative 2.**

SLWS was pleased to see that the City has included the two alternatives we proposed as alternatives to be analyzed in the DEIR. However, the DEIR has narrowly defined Alternative 2, failing to include features proposed by SLWS for this alternative. The DEIR also fails to expand consideration of any potential feature for the site beyond those specifically included in the proposed Project. Unfortunately, it appears the DEIR's limited inclusion of features for Alternative 2 may be based on an attempt to manufacture a claim this alternative would not meet project objectives. SLWS proposed this alternative in a manner specifically intended to meet project objectives and the DEIR must be revised to consider it as such.

SLWS identified a Reduced Intensity Alternative in its scoping comments, which is the basis for Alternative 2. SLWS set a focus for this alternative as a reduction in new development at the Reservoir Complex. The DEIR has misinterpreted reduction in new development to be no new construction, which was not a parameter proposed by SLWS.

For example, the Reduced Intensity Alternative was not intended to eliminate all features proposed for the South Valley portion of the Reservoir Complex. The Recreation Center and the Dog Park should be expanded under this alternative, providing additional recreational opportunities. Additionally, SLWS did not propose no outdoor pavilion, only that it be moved from the Knoll hillside to the flat area of the Meadow to reduce required grading. SLWS also did not define the Reduced Intensity Alternative to eliminate any special events. However, as discussed in the noise impacts section, amplified noise should not be allowed at special events and the number and hours of operation of these events should be limited to reduce impacts to the community.

Further, the DEIR appears to claim the only way to provide educational opportunities at the Silver Lake Reservoir Complex is through the construction of an indoor educational center. As discussed above, this is an overly narrow interpretation of the objective to provide educational opportunities. SLWS specifically stated the Reservoir should instead be used as an open space outdoor educational area. The entire purpose of

education at this site is for the education to be related to the wildlife found on this site. A building is not required for this education. If public facilities, such as restrooms, would facilitate outdoor education on the site, those facilities could be included in Alternative 2 with a significantly smaller footprint and impact. (See the North Hollywood Recreation Center <https://www.bestrestroom.com/other-finalist/?finalist=3307&bryear=2022>, incorporated by reference.)

SLWS advocates for more creative thinking from the City in this regard. Raised platforms adjacent to the Reservoir with public telescopes could be used for outdoor education, allowing observation of the birds and other wildlife on the site. These birds and wildlife will also be in more abundant numbers if less of their habitat is destroyed by construction. Guided nature walks would also provide outdoor educational opportunities. These educational opportunities do not require an enclosed building and classroom. Those type of facilities can be built elsewhere, where they would not remove the very nature the site is intended to educate about.

- **Alternative 2 is Environmentally Superior.**

The DEIR discloses that Alternative 2 would substantially lessen the disclosed significant adverse construction impacts associated with the Project. Without amplified sound, it would eliminate the significant adverse operational noise impact disclosed by the DEIR. Alternative 2 would also reduce other impacts the DEIR did not consider significant. (DEIR p. 5-28.)

Additionally, as discussed throughout these comments, the DEIR is informationally deficient and those informational deficiencies have led to an underestimation of the significance of a number of Project impacts. Once the DEIR is revised to properly analyze the impacts, there will be additional significant adverse impacts of the Project disclosed such as biological, additional operational noise impacts, impacts to the historic Silver Lake Reservoir Complex, land use impacts and more. Alternative 2 would substantially lessen these impacts, further solidifying its status as environmentally superior to the proposed Project.

- **Alternative 2 is Feasible.**

To be deemed feasible under CEQA, an alternative need to accomplish the basic project purpose. It is well settled that “[i]f there are feasible alternatives ... that would accomplish *most of the objectives* of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures.” (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1370, fn 19, citation to Pub. Resources Code §§ 21000(g), 21002, Guidelines § 15091.) Alternatives are not required to meet all project objectives, and in reality, it “is virtually a given that the alternatives to a project will not attain *all* of the project’s objectives.” (*Watsonville Pilots Ass’n v. City of Watsonville*

(2010) 183 Cal.App.4th 1059, 1087.)

Here, the DEIR admits that even as narrowly proposed, Alternative 2 would meet all project objectives, even if to a lesser degree than the proposed Project. (DEIR pp. 5-29 to 5-31.) Moreover, once Alternative 2 is revised as discussed above, it would meet these objectives even better. The DEIR claims Alternative 2 does not expand existing active recreational activities, but this claim is based on the Alternative 2 not including any expansion of uses in the South Valley. As discussed above, this will expand and enhance of recreational uses in the South Valley.

Additionally, the DEIR claims Alternative 2 reduces educational opportunities, but fails to assess this alternative's ability to provide outdoor, as opposed to indoor, environmental education.

For all of these reasons, Alternative 2 is a less impactful, feasible alternative.

- **Alternative 3 is a Less Impactful, Feasible Alternative.**
- **The DEIR Includes an Improperly Narrow Description of Alternative 3.**

SLWS is also pleased the City has included its proposed Natural Lands and Open Space Preserve as Alternative 3, but as with Alternative 2, the DEIR has provided an overly restrictive description of Alternative 3, eliminating features that were intended to be included in this alternative and failing to consider features other than those proposed for the Project.

First, the DEIR misstates the overarching intent for Alternative 3 (DEIR 5-22) set by SLWS of maintaining and expanding public, wildlife and bird access to the Knoll, Eucalyptus Grove and the water's edge. The purpose identified by SLWS for this alternative is prioritizing natural areas and enhancing habitats, as well as improving water quality and water recharge.

The DEIR has defined Alternative 3 to eliminate inclusion of wetland terraces, but this elimination was not specifically proposed or intended when SLWS identified the Natural Lands and Open Space Alternative. SLWS proposed provision of an expanded range of habitats, including open water, marsh, riparian and upland. Thus, Alternative 3 could include wetland terraces, if those would not result in biologically adverse impacts. As biological experts have identified, the DEIR lacks evidentiary support for claims of benefits from these wetland terraces, and without that evidence, they should not be included in any alternative or the proposed Project.

Further, as with Alternative 2, Alternative 3 could and should provide outdoor educational opportunities, taking advantage of the habitat enhancements and provision of a wildlife corridor that this alternative would provide.

- **Alternative 3 is Environmentally Superior.**

The DEIR discloses that Alternative 3 would substantially lessen the disclosed significant adverse construction impacts associated with the Project. Without amplified sound, it would eliminate the significant adverse operational noise impact disclosed by the DEIR. Alternative 3 would also reduce other impacts the DEIR did not consider significant. (DEIR p. 5-28.)

Additionally, as discussed throughout these comments, the DEIR is informationally deficient and those informational deficiencies have led to an underestimation of the significance of a number of Project impacts. Once the DEIR is revised to properly analyze the impacts, there will be additional significant adverse impacts of the Project disclosed such as biological, additional operational noise impacts, impacts to the historic Silver Lake Reservoir Complex, land use impacts, public safety and more. Alternative 3 would substantially lessen these impacts, adding to its environmental superiority over the proposed Project.

- **Alternative 3 is Feasible.**

The DEIR acknowledges that even as narrowly proposed, Alternative 3 would meet the majority of the project objectives, even if to a lesser degree than the proposed Project. (DEIR pp. 5-29 to 5-31.) Moreover, once Alternative 3 is revised as discussed above, it would meet these objectives even better.

The DEIR claims confusingly Alternative 3 would not meet the objective to “Preserve and enhance the unique character of the SLRC with increased points of access, improved internal circulation and access to the water’s edge, and increased spaces for community and family gatherings.” Alternative 3 would clearly preserve and enhance the unique character of the Reservoir. It would also increase space for community and family gatherings with leaving the Meadow structure-free for all free form gatherings, including pickup sports.

Additionally, contrary to the statements in the DEIR, Alternative 3 would expand recreation through the expansion of uses in the South Valley, with remodeling and renovation of the current Recreation Center, as well as upgrading of the dog park and providing dog owner proposed fencing for guided access walks. That there would be fencing limiting the hours of use from dawn to dusk would still increase access to the Reservoir Complex, particularly since this site is not intended for nighttime use. The fencing would also protect wildlife and gates could be closed to shield wildlife during sensitive times.

While there would be fewer trails, Alternative 3 would still increase circulation at the site; the DEIR shows promenades in the East and West Narrows. (Fig 5-2.) Further the Silver Lake Lawn and Great Lawn would still be available as public gathering locations. There is no requirement to eliminate all special events under this alternative, only to eliminate amplified sound and restrict the number and hours of operation of special events. Special events would be curated for suitability, time and target audience, further providing protections for wildlife while enhancing public access. Thus, Alternative 3 meets this objective.

The DEIR also claims Alternative 3 would not meet the objective of expanding wildlife habitat by introducing wetland and aquatic ecologies. Open water habitat would be restored, achieving this objective. Further, as discussed above, the wetland terraces and addition of fish to the Reservoir have not been shown to benefit wildlife, so their inclusion is not necessary to meet the stated objective.

Additionally, the DEIR claims Alternative 3 reduces educational opportunities, but fails to assess this alternative's ability to provide outdoor, as opposed to indoor, environmental education. Instead of destroying existing habitat as the Project would do, this alternative would provide a unique outdoor space for education. The ability to provide this benefit that cannot be found in most other open space within the City should be given higher priority than the construction of buildings that could be built elsewhere.

- **Alternatives 2 and 3, as well as Newly Proposed Alternative Hybrid 3+2, Are Feasible, Less Impactful Alternatives, Prohibiting Approval of the Proposed Project.**

The DEIR admits that that the Project would have significant construction noise impacts and operational noise impacts from special events. Throughout this comment letter, we establish that the Project would have numerous other significant adverse impacts that the DEIR fails to disclose.

Alternatives 2 and 3 are feasible alternatives that would substantially lessen and/or eliminate significant adverse impacts resulting from the Project. Alternative Hybrid 3+2 would also eliminate this significant impact, as well as other impacts the DEIR has failed to disclose. Thus, under CEQA's substantive mandate, the City cannot approve the Project as proposed.

Conclusion

For all of the reasons set forth herein, SLWS find the DEIR to be wholly inadequate. Before the Silver Lake Reservoir Complex Master Plan can move forward, a revised DEIR must be recirculated to address the many failings. The analysis included in the revised DEIR must be used to provide project objectives that are environmentally protective and to evaluate alternatives that would reduce the many impacts that could result from implementation of some components of the proposed Project.

Additionally, we ask that you inform us of any future Project notices pursuant to Public Resources Code section 21092.2 and applicable Municipal Code requirements. We further request that you retain all Project related documents including correspondence and email communications as required by CEQA. (*Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 52 Cal.App.5th 837 [agency “must retain writings”].)

Thank you for your time and consideration in this matter.

Sincerely,

Amy Minter
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cc:

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Attachments:

- Expert Comments from Daniel Cooper at Resource Conservation District
- Expert Comments from Dr. Amanda Zellmer
- Expert Comments from Johdan Fine
- CDFW Scoping Comments
- Consultation Letters from CDFW to City re Black Walnut Trees
- Community Plan Excerpts
- Los Angeles Municipal Code §12.04.05
- Excerpts of PAW Report